

**\*\*\*DRAFT - NOT FOR FILING\*\*\***

**3901-6-03      Life insurance disclosure.**

(A) Purpose

The purpose of this rule is to assist consumers by requiring insurers to deliver information about life insurance policies that will better allow those consumers to select the most appropriate policy for their needs, improve their understanding of the policy's basic features, and improve the consumer's ability to evaluate the relative costs of different policies.

~~(1) The purpose of this rule is to require insurers to deliver to purchasers of life insurance information which will improve the buyer's ability to select the most appropriate plan of life insurance for the buyer's needs, improve the buyer's understanding of the basic features of the policy which has been purchased or which is under consideration and improve the ability of the buyer to evaluate the relative costs of similar plans of life insurance.~~

~~(2) This rule does not prohibit the use of additional material which is not a violation of this rule or any other Ohio statute or rule.~~

(B) Authority

This rule is promulgated pursuant to the authority vested in the superintendent under sections 3901.041, ~~and~~ 3901.21, 3901.212, and 3905.28 of the Revised Code.

(C) Scope

(1) Except for the exemptions specified in paragraph (C)(2) of this rule, this rule ~~shall apply~~ applies to any solicitation, negotiation or procurement of life insurance occurring within this state. ~~This rule shall apply to~~ by any issuer of life insurance contracts including fraternal benefit societies.

(2) Unless specifically included, this rule ~~shall~~ does not apply to:

(a) Annuities;

(b) Credit life insurance;

(c) Group life insurance;

(d) Life insurance policies issued in connection with pension and welfare plans as defined by and ~~which are~~ subject to the federal Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. section 1001 et seq. as amended; or

(e) Variable life insurance under which the amount or duration of the life insurance varies according to the investment experience of a separate account.

(D) Definitions

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~~For the purposes of this rule, the following definitions shall apply:~~

- (1) "Buyer's Guide" is ~~a~~ the document ~~that contains, and is limited to, the buyer's guide listed in~~ included as appendix A to this rule.
- (2) Cost comparison indexes
  - (a) "Surrender Cost Comparison Index--Guaranteed Basis" is calculated by applying the following steps:
    - (i) Step one: determine the guaranteed cash surrender value, if any, available at the end of the tenth and twentieth policy years.
    - (ii) Step two: divide the result of step one by an interest factor that converts it into an equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in step one over the respective periods stipulated in step one. If the period is ten years, the factor is 13.207 and if the period is twenty years, the factor is 34.719.
    - (iii) Step three: determine the equivalent guaranteed level premium by accumulating each guaranteed annual premium payable for the basic policy or rider at five per cent interest compounded annually to the end of the period stipulated in step one and dividing the result by the respective factors stated in step two. ~~(This amount is the guaranteed annual premium payable for a level premium plan.)~~
    - (iv) Step four: subtract the result of step two from the result of step three.
    - (v) Step five: divide the result of step four by the number of thousands of the equivalent guaranteed level death benefit, using the company's guaranteed rate schedule to determine the amount payable upon death for purposes of paragraph (D)(3)(a) of this rule, to arrive at the "Surrender Cost Comparison Index-Guaranteed Basis."
  - (b) "Net Payment Cost Comparison Index--Guaranteed Basis" is calculated in the same manner as the comparable "Surrender Cost Comparison Index--Guaranteed Basis" except that the cash surrender value is set at zero.
- (3) "Equivalent Guaranteed Level Death Benefit" of a policy or term life insurance rider is an amount calculated as follows:
  - (a) Step six: accumulate the amount payable upon death, regardless of the cause of death, at the beginning of each policy year for ten and twenty years at five per cent interest compounded annually to the end of the tenth and twentieth policy years respectively.
  - (b) Step seven: divide each accumulation of step six by an interest factor that converts

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the accumulation into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in step six over the respective periods stipulated in step six. If the period is ten years, the factor is 13.207 and if the period is twenty years, the factor is 34.719.

- (4) "Generic Name" is a short title that is descriptive of the premium and benefit patterns of a policy or a rider.
- (5) "Policy Data" is a display or schedule of guaranteed numerical values for each policy year or a series of designated policy years of the following information: premiums; death benefits; cash surrender values and endowment benefits.
- (6) "Policy summary" is a written statement describing the elements of the policy, including, ~~but not limited to:~~
  - (a) A prominently placed title ~~as follows~~such as: "STATEMENT OF POLICY COST AND BENEFIT INFORMATION."
  - (b) The name and address of the insurance agent or, if no agent is involved, a statement of the procedure to be followed ~~in order~~ to receive responses to inquiries regarding the policy summary.
  - (c) The full name and home office or administrative office address of the company where the life insurance policy is to be or has been written.
  - (d) The generic name of the basic policy and each rider.
  - (e) The following amounts, where applicable, for the first five policy years and representative policy years thereafter sufficient to clearly illustrate the premium and benefit patterns: ~~including, but not necessarily limited to,~~ the years for which cost comparison indexes are displayed and the earlier of at least one age from sixty through sixty-five and policy maturity:
    - (i) The guaranteed annual premium for the basic policy;
    - (ii) The guaranteed annual premium for each optional rider;
    - (iii) The guaranteed amount payable upon death at the beginning of the policy year regardless of the cause of death, other than suicide or other specifically enumerated exclusions, which is provided by the basic policy and each optional rider ~~;~~ with benefits provided under the basic policy and each rider shown separately;
    - (iv) The guaranteed total cash surrender values at the end of the year with values shown separately for the basic policy and each rider; and
    - (v) Any guaranteed endowment amounts payable under the policy which are not

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included under cash surrender values in this paragraph.

- (f) The effective policy loan annual percentage interest rate, ~~if the policy contains this provision,~~ specifying whether this rate is applied in advance or in arrears. ~~If, if the policy contains this provision, or a statement that the annual percentage rate will be determined by the company in accordance with the provisions of the policy and applicable law, if~~ the policy loan interest rate is adjustable, ~~the policy summary shall also indicate that the annual percentage rate will be determined by the company in accordance with the provisions of the policy and the applicable law.~~
- (g) ~~The Separate~~ cost comparison indexes for the basic policy and for each optional term life insurance rider for ten and twenty years but in no case beyond the premium-paying period. ~~Separate indexes shall be displayed for the basic policy and for each optional term life insurance rider. Such Cost comparison~~ indexes need not be included for basic policies, optional riders covering more than one life, or optional riders which are limited to benefits; such as accidental death benefits, disability waiver of premium, preliminary term life insurance coverage of less than twelve months and guaranteed insurability benefits; ~~nor for any basic policies or optional riders covering more than one life.~~
- (h) This statement in close proximity to the cost comparison indexes:
- "An explanation of the intended use of these indexes is provided in the Life Insurance Buyer's Guide."
- (i) The date on which the policy summary is prepared.

The policy summary must consist of a separate document. All information required to be disclosed must be set out in such a manner as not to minimize or render any portion obscure. Any amounts which remain level for two or more years of the policy may be represented by a single number if it is clearly indicated what amounts are applicable for each policy year. Amounts in paragraph (D)(6)(e) of this rule ~~shall~~ are to be listed in total, not on a per thousand nor per unit basis. If more than one insured is covered under one policy or rider, death benefits ~~shall~~ are to be displayed separately for each insured or for each class of insureds if death benefits do not differ within the class. Zero amounts ~~shall~~ are to be displayed as a zero and not as a blank.

## (E) Duties of insurers

- (1) The insurer ~~shall provide, to~~ is responsible for providing all prospective purchasers, with a copy of the buyer's guide and a policy summary prior to accepting the

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applicant's initial premium or premium deposit; provided, however, that:

- (a) If an illustration subject to the requirements of rule 3901-6-04 of the Administrative Code, ~~(life insurance illustrations)~~, is used in the sale of a policy, a policy summary ~~does need~~ not ~~have to~~ be provided. Only guarantees may be shown in the policy summary for policies written with an application date on or after the effective date of rule 3901-6-04 of the Administrative Code ~~(life insurance illustrations)~~.
- (b) If the policy for which application is made or its policy summary contains an unconditional refund provision of at least ten days, the buyer's guide and policy summary ~~must~~ are to be delivered with the policy or prior to delivery of the policy.
- (c) If the equivalent guaranteed level death benefit of the policy for which application is made does not exceed five thousand dollars, an insurer will be considered to have met the requirement ~~for providing to provide~~ a policy summary ~~will be satisfied by~~ upon delivery of a written statement containing the information described in paragraphs (D)(6)(b), (D)(6)(c), (D)(6)(d), (D)(6)(e)(i), (D)(6)(e)(ii), (D)(6)(e)(iii), (D)(6)(e)(iv), (D)(6)(f), (D)(6)(g), (D)(6)(h), and (D)(6)(i) of this rule.
- (2) In the case of a solicitation by direct response methods, the insurer shall provide the buyer's guide and a policy summary prior to accepting the applicant's application; provided however, that if the policy for which application is made contains an unconditional refund provision of at least ten days, the buyer's guide and a policy summary may be delivered with the policy.
- (3) ~~If any prospective purchaser requests~~ Insurers will make the buyer's guide, a policy summary, or policy data, ~~the insurer shall provide the item or material requested.~~ available to the prospective purchaser upon the prospective purchaser's request.

## (F) Special plans

This paragraph modifies the application of this rule as indicated for certain special plans of life insurance:

- (1) "Flexible Premium and Benefit Policies." For policies commonly called "universal life insurance policies," which:
  - (a) Permit the policyowner to vary, independently of each other, the amount and timing of premium payments, or the amount payable on death; and
  - (b) Provide for a cash value that is based on separately identified interest credits and mortality and expense charges applied to the policy.

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All indexes and other data ~~shall~~are to be displayed assuming specific schedules of anticipated premiums and death benefits at issue.

In addition to all other information required by this rule, the policy summary shall indicate when the policy will expire based on the interest rates and mortality and other charges guaranteed in the policy and the anticipated or assumed annual premiums shown in the policy summary.

- (2) "Multitrack Policies." For policies which allow a policyowner to change or convert the policy from one plan or amount to another, the policy summary:
  - (a) ~~Shall~~Will display all indexes and other data assuming that the option is not exercised; and
  - (b) May display all indexes and other data using a stated assumption about the exercise of the option.
- (3) "Policies with Any Rate Subject to Continued Insurability." For policies ~~which~~that allow a policyowner a reduced premium rate if the insured periodically submits evidence of continued insurability, the policy summary will:
  - (a) ~~Shall display~~Display cost indexes and other data assuming that the insured always qualifies for the lowest premium;
  - (b) ~~Shall display~~Display cost indexes and other data assuming that the company always charges the highest premiums allowable; and
  - (c) ~~Shall indicate~~Indicate the conditions that must be fulfilled for an insured to qualify periodically for the reduced rate.

### (G) General rules

- (1) ~~Each insurer shall maintain, at its home office or principal office, a~~ A complete file containing one copy of each document authorized and used by the insurer pursuant to this rule. ~~Such file shall~~ will be maintained by the insurer at its home office or principal office and contain one copy of each authorized form for a period of three years following the date of its last authorized use, unless otherwise provided by this rule.
- (2) ~~An~~ Prior to commencing a life insurance sales presentation, an agent shall inform the prospective purchaser, ~~prior to commencing a life insurance sales presentation,~~ that the agent is acting as a life insurance agent and inform the prospective purchaser of the full name of the insurance company which the agent is representing to the buyer. In sales situations in which an agent is not involved, the insurer shall identify its full name.

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- (3) No term may be used in a way that would reasonably imply that the agent is primarily engaged in an advisory business in which compensation is unrelated to sales unless that is actually the case. Terms ~~such as that~~ could reasonably imply an advisory business include financial planner, investment advisor, financial consultant, financial counselor, or financial counseling ~~shall not be used in such a way as to imply that the insurance agent is primarily engaged in an advisory business in which compensation is unrelated to sales unless such is actually the case.~~
- (4) ~~There shall be no~~ No reference may be made to a dividend or non-guaranteed element.
- (5) Any statement regarding the use of the cost comparison indexes ~~shall~~ are to include an explanation to the effect that the indexes are useful only for the comparison of the relative costs of two or more similar policies.

(H) Failure to comply

Failure of an insurer or an agent to provide or deliver the buyer's guide, a policy summary or policy data as provided in paragraphs (E) and (F) of this rule, ~~shall~~ constitute an omission which misrepresents the benefits, advantages, conditions or terms of an insurance policy. In addition to any other penalties provided by the laws of this state, ~~an insurer, agent, or authorized representative of the insurer that violates a requirement of this rule shall be guilty of~~ a violation of this rule is an unfair and deceptive act or practice under section 3901.21 of the Revised Code.

(I) Severability

~~If any paragraph, term or provision of this rule is adjudged invalid for any reason, such judgment shall not affect, impair or invalidate any other paragraph, term or provision of this rule, and remaining paragraphs, terms and provisions shall be and shall continue in full force and effect.~~ If any portion of this rule or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the rule or related rules which can be given effect without the invalid portion or application, and to this end the provisions of this rule are severable.